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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Fifty-fourth session
Vienna, 13-24 April 2015

Draft report

I. Introduction

A. Opening of the session

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its fifty-fourth session at the United Nations Office at Vienna from 13 to 24 April 2015 under the chairmanship of Kai-Uwe Schrogl (Germany).

2. The Subcommittee held [...] meetings.

B. Adoption of the agenda

3. At its 897th meeting, on 13 April, the Subcommittee adopted the following agenda:

1. Adoption of the agenda.
2. Statement by the Chair.
3. General exchange of views.
4. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
5. Status and application of the five United Nations treaties on outer space.
6. Matters relating to:
   (a) The definition and delimitation of outer space;
   (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and

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equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

7. National legislation relevant to the peaceful exploration and use of outer space.

8. Capacity-building in space law.

9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

10. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee.

11. General exchange of information on non-legally binding United Nations instruments on outer space.

12. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.

13. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fifth session.

C. Attendance

4. Representatives of the following [...] States members of the Committee attended the session: Algeria, Argentina, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Czech Republic, France, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Lebanon, Luxembourg, Malaysia, Mexico, Morocco, Netherlands, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

5. The Subcommittee decided to invite, at their request, observers for the Dominican Republic, El Salvador, Israel, Namibia, Oman, Panama, Qatar, Sri Lanka and the United Arab Emirates to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

6. The Subcommittee also decided to invite the observer for the European Union, at its request, to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

7. An observer for the International Telecommunication Union (ITU) attended the session.

8. The session was attended by observers for the following intergovernmental organizations having permanent observer status with the Committee: Asia-Pacific Space Cooperation Organization (APSCO), European Space Agency (ESA), European Telecommunications Satellite Organization (EUTELSAT-IGO), Inter-Islamic Network on Space Sciences and Technology (ISNET) and International Organization of Space Communications (Intersputnik).

9. The session was also attended by observers for the following non-governmental organizations having permanent observer status with the Committee: European Centre for Space Law (ECSL), European Space Policy Institute (ESPI), Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation, International Association for the Advancement of Space Safety (IAASS), International Institute of Space Law (IISL), International Law Association (ILA), Secure World Foundation (SWF) and Space Generation Advisory Council (SGAC).

10. The Subcommittee had before it information concerning the applications of El Salvador, Israel, Oman, Qatar, Sri Lanka and the United Arab Emirates for membership in the Committee (A/AC.105/C.2/2015/CRP.4, A/AC.105/C.2/2015/CRP.22, A/AC.105/C.2/2015/CRP.7, A/AC.105/C.2/2015/CRP.3, A/AC.105/C.2/2015/CRP.5, A/AC.105/C.2/2015/CRP.6, respectively).

11. A list of the representatives of States, United Nations entities and other international organizations attending the session is contained in document [...].

D. Symposium

12. On 13 April, IISL and ECSL held a symposium on the theme "Space traffic management", co-chaired by Tanja Masson-Zwaan of IISL and Sergio Marchisio of ECSL. The symposium was opened with a statement of welcome, and the Subcommittee subsequently heard the following presentations: "From the 2006 to the 2016 space traffic management studies of the International Academy of Astronautics", prepared by Corinne Jorgenson and presented by Alexander Soucek; "Rights and obligations in the international commons: the case of outer space", by Stephan Hobe; "Space safety and space traffic management", by Isabelle Rongier; "Frequency management and space traffic management", by Yvon Henri; "Space traffic management and the governance of space activities", by Guoyu Wang; "International Civil Aviation Organization/Office for Outer Space Affairs Aerospace Symposium: an inter-agency effort on space traffic management", by Simonetta Di Pippo and Niklas Hedman; and "Road map to the stars: a conference report", by Diane Howard. Concluding remarks were made by the co-chairs of the symposium and the Chair of the Subcommittee. The presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (www.unoosa.org/oosa/en/COPUOS/lsc/2015/symposium.html).

13. The Subcommittee noted with appreciation that the symposium had constituted a valuable contribution to its work.

E. Adoption of the report of the Legal Subcommittee

14. At its [...] meeting, on [...] April, the Subcommittee adopted the present report and concluded the work of its fifty-fourth session.

III. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

15. Pursuant to General Assembly resolution 69/85, the Subcommittee considered agenda item 4, entitled "Information on the activities of international intergovernmental and non-governmental organizations relating to space law", as a regular item on its agenda.

16. The representatives of Chile and the United States made statements under agenda item 4. Statements were also made by the observers for APSCO, ECSL, the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation, IISL, ILA and Intersputnik.

17. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat containing information on activities relating to space law received from ECSL, the International Institute for the Unification of Private Law (Unidroit), ILA and Intersputnik (A/AC.105/C.2/106);

(b) Conference room paper containing information on activities relating to space law received from IISL (A/AC.105/C.2/2015/CRP.19).

18. The Subcommittee heard a presentation entitled "The Space Generation Advisory Council: a focus on the Space Law and Policy Project Group", by an observer for SGAC.

19. The Subcommittee noted with satisfaction that the activities of international intergovernmental and non-governmental organizations relating to space law had continued to contribute significantly to the study, clarification and development of space law and that those organizations had continued to organize conferences and symposiums, prepare publications and reports, and organize training seminars for practitioners and students, all of which were intended to broaden and advance knowledge of space law.

20. The Subcommittee noted that international intergovernmental organizations had an important role to play in the development, strengthening and furtherance of understanding of international space law.

21. The Subcommittee welcomed the information provided by the observer for IISL on its activities relating to space law (see A/AC.105/C.2/2015/CRP.19), including the outcome of the final round of the twenty-third Manfred Lachs Space Law Moot Court Competition, held in Toronto, Canada, on 3 October 2014; the outcome of the ninth Eilene M. Galloway Symposium on Critical Issues in Space Law, held in Washington, D.C., on 10 December 2014; information on the upcoming 58th Colloquium on the Law of Outer Space, to be held in Jerusalem from 12 to

16 October 2015; and information on the International Academy of Astronautics/IISL Conference on Climate Change and Disaster Management, held in Trivandrum, India, from 26 to 28 February 2015.

22. The Subcommittee welcomed the information provided by the observer for ECSL on its activities relating to space law (see A/AC.105/C.2/106), including information on the 2014 ECSL Practitioners' Forum, held in Paris on 14 March; on the European round of the Manfred Lachs Space Law Moot Court Competition, held in Wroclaw, Poland, from 14 to 17 May 2014; and on the outcome of the twenty-third ECSL Summer Course on Space Law and Policy, held in Geneva, Switzerland, from 1 to 12 September 2014.

23. The Subcommittee welcomed the information provided by the observer for APSCO on its activities relating to space law, including information on the United Nations/China/APSCO Workshop on Space Law, held in Beijing from 17 to 21 November 2014, and on the upcoming third APSCO Space Law and Policy Forum, to be held in Beijing in September 2015.

24. The Subcommittee welcomed the information provided by the observer for ILA on its activities relating to space law (see A/AC.105/C.2/106), including information on the seventy-sixth ILA Biennial Conference, organized jointly with the American Society of International Law, held in Washington, D.C., from 7 to 11 April 2014.

25. The Subcommittee welcomed the information provided by the observer for the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation on its activities relating to space law, including on its latest event dedicated to space law, held in November 2014.

26. The Subcommittee welcomed the information provided by the observer for Intersputnik on its activities relating to space law (see A/AC.105/C.2/106), including information on the training and professional support that Intersputnik provided to its partners, and on international cooperation in the form of joint satellite projects.

27. In accordance with the agreement reached by the Subcommittee at its fifty-third session, in 2014 (see A/AC.105/1067, para. 45), Unidroit made available to the Subcommittee information on recent developments in relation to the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets (see A/AC.105/C.2/106). The Subcommittee noted that the Preparatory Commission for the Establishment of the International Registry for Space Assets, acting as the Provisional Supervisory Authority of the future international registry, had successfully held three sessions. At its third session, in September 2014, the Preparatory Commission had finalized the text of the registry regulations except in regard to the issue of the identification criteria for parts of spacecraft.

28. The Subcommittee agreed that the representative of Unidroit should be invited to update the Subcommittee on further developments relating to the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets at its fifty-fifth session.

29. The Subcommittee agreed that it was important to continue the exchange of information on recent developments in the area of space law between the

Subcommittee and international intergovernmental and non-governmental organizations and that such organizations should once again be invited to report to the Subcommittee, at its fifty-fifth session, on their activities relating to space law.

IV. Status and application of the five United Nations treaties on outer space

30. Pursuant to General Assembly resolution 69/85, the Subcommittee considered agenda item 5, entitled "Status and application of the five United Nations treaties on outer space", as a regular item on its agenda.

31. The representatives of Algeria, Brazil, Canada, Germany, Japan, Spain, the Netherlands, the Republic of Korea, the Russian Federation and the United States made statements under agenda item 5. A statement was also made by the representative of Chile on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

32. The Subcommittee heard a presentation entitled "Space object registration by the European Space Agency: current policy and practice", by the observer for ESA.

33. At its 897th meeting, on 13 April, the Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Jean-François Mayence (Belgium). The Subcommittee commended the outgoing Chair of the Working Group for his dedication in chairing the Working Group and his tireless efforts in moving the discussions in the Working Group forward.

34. At its [...] meeting, on [...] April, the Subcommittee endorsed the report of the Chair of the Working Group, contained in annex I to the present report.

35. The Subcommittee had before it the following:

(a) Conference room paper on the status of international agreements relating to activities in outer space as at 1 January 2015 (A/AC.105/C.2/2015/CRP.8);

(b) Notes by the Secretariat containing responses to the set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, received from Germany (A/AC.105/C.2/2015/CRP.11) and Canada (A/AC.105/C.2/2015/CRP.21);

(c) Overview by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space on the responses from member States and permanent observers of the Committee to the set of questions provided by the Chair, contained in the report of the Legal Subcommittee on its fifty-third session, document A/AC.105/1067, annex I, appendix (A/AC.105/C.2/2015/CRP.12).

36. The Subcommittee noted that, as at 1 January 2015, the status of the five United Nations treaties on outer space was as follows:

(a) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

(Outer Space Treaty), had 103 States parties and had been signed by 25 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space had 94 States parties and had been signed by 24 additional States; two international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Agreement;

(c) The Convention on International Liability for Damage Caused by Space Objects (Liability Convention) had 92 States parties and had been signed by 21 additional States; three international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Convention;

(d) The Convention on Registration of Objects Launched into Outer Space had 62 States parties and had been signed by 4 additional States; three international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Convention;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Moon Agreement) had 16 States parties and had been signed by 4 additional States.

37. The Subcommittee noted the fortieth anniversary of the Registration Convention, one of the most important instruments in the application and implementation of obligations under the United Nations treaties on outer space. The Registration Convention, which was adopted on 12 November 1974, was opened for signature on 14 January 1975 and entered into force on 15 September 1976, constituted the foundation for the registration of objects launched into outer space.

38. The Subcommittee noted with appreciation that the Secretariat continued to update, on an annual basis, the status of international agreements relating to activities in outer space; the current update had been made available to the Subcommittee in conference room paper A/AC.105/C.2/2015/CRP.8. The Subcommittee requested the Secretariat to include, in future updates, the contact information of the depositaries of those agreements.

39. Some delegations expressed the view that the United Nations treaties on outer space formed an indispensable legal basis for supporting the increasing scale of space activities and strengthening international cooperation in the peaceful uses of outer space. Those delegations welcomed the growing adherence to the United Nations treaties on outer space and encouraged those States that had not yet become States parties to the treaties to consider doing so.

40. Some delegations expressed the view that it was necessary to review, update and strengthen the five United Nations treaties on outer space with a view to invigorating the guiding principles that govern the space activities of States and to filling any legal lacunae in the current international legal regime on outer space, as well as strengthening international cooperation and facilitating the exchange of space technology and expertise for the benefit of all people. Those delegations were of the view that such reviewing and updating should not undermine the fundamental principles underlying the existing legal regime, but should rather enrich and further develop those principles.

41. Some delegations expressed the view that it was essential to ensure that all States adhere to and implement the five United Nations treaties on outer space, which form the legal foundation for governing outer space activities and have enabled States and their people to enjoy tremendous benefits from such activities. Those delegations were of the view that in cases where legal uncertainties might be found in those treaties, actors conducting activities in outer space could make use of non-legally binding instruments.

42. Some delegations expressed the view that the five United Nations treaties on outer space were a basis for the regulation of the participation and the responsibility of both Governments and non-governmental organizations and that they strengthened the safety and security of space activities. Those delegations were of the view that the legal regime governing activities in outer space should ensure that space research and space activities benefit the quality of life and well-being of human beings and the prosperity of current and future generations.

43. Some delegations expressed the view that in order to meet the challenges associated with the rapid development of space activities, which could not have been foreseen at the time when the five United Nations treaties were negotiated, it was necessary to reach an agreement on updating the existing legal regime on outer space.

44. The view was expressed that the wide array of non-binding mechanisms and initiatives being developed to supplement the five United Nations treaties on outer space, such as the draft international code of conduct and the efforts of the Working Group on the Long-term Sustainability of Outer Space Activities of the Scientific and Technical Subcommittee, not only yielded practical benefits in the present but could also influence the future creation of treaties on outer space.

45. The view was expressed that the existing shortcomings of and loopholes found in the current United Nations treaties on outer space, in particular the Liability Convention and the Registration Convention, were among the reasons for the low rate of adherence to the United Nations treaties on outer space.

46. The view was expressed that the general principles of the Outer Space Treaty had become international customary law, since almost all States conducting activities in outer space had ratified that Treaty and acted in accordance with its provisions; furthermore, there was no evidence of practice contrary to the Treaty on the part of States that had not acceded to it.

47. The view was expressed that the Legal Subcommittee should examine the work of the International Seabed Authority related to a draft framework for the regulation of exploitation activities in the international deep seabed area and on the development of financial terms for such exploitation in order to examine possible linkages between the commercial regime for the deep seabed and the questions arising from article XI of the Moon Agreement.

48. The view was expressed that, while under article VI of the Outer Space Treaty States bore responsibility for national activities in outer space, it did not mean that a State was liable under article VII of that Treaty or under the Liability Convention for damage caused by a space object owned or operated by an enterprise registered in that State, when the enterprise had requested that the launch should take place from a State other than the enterprise's State of registration. The delegation

expressing that view was also of the view that liability in such an instance could be appropriately allocated in a bilateral agreement between the State of registration and the State that had launched the space object.

49. The view was expressed that the registration of space objects was one of the key elements of the United Nations treaties on outer space and that the registration principles contained in the Outer Space Treaty and in the Registration Convention were sufficient, if properly applied. The delegation expressing that view was also of the view that in accordance with articles VI and VII of the Outer Space Treaty, the launching State remained responsible for all the space objects it had launched. As a consequence, and to avoid the use of "flags of convenience", a transfer of registration was possible only between launching States.